

Call to Order:

The meeting was called to order at 7:00 p.m. Present were Chairman, Paul Salafia, and members, Linn Anderson, Joan Duff, John McDonnell (arrived at 7:03 p.m.), and associate member, Mark Yanowitz; also present were Paul Materazzo, Director of Planning, and Jacki Byerley, Planner.

Merrimack Estates:

Ms. Byerley reviewed her memo to the Board, dated November 4, 2009, which described the applicant's request for clarifications on the type of curbing to be installed along the subdivision roadway. On a motion by Ms. Anderson, seconded by Ms. Duff, the Board voted to accept the bituminous curbing along Christian Way, rather than vertical granite curbing. **Vote Unanimous (3-0)**

Shandel Circle:

The Board took up the discussion on a request by Yvon Cormier Construction Corporation for the Board to consider a minor modification to the Belnap Estates Subdivision (Shandel Circle), located off Sunset Rock Road. Ms. Byerley reviewed Mr. Materazzo's memo to the Board, dated November 5, 2009, in which he outlined proposed changes which would allow for the redesign of the existing berm detention basin and allow for the construction of an underground system instead. On a motion by Ms. Anderson, seconded by Ms. Duff, the Board voted to close the discussion for Shandel Circle. **Vote Unanimous (4-0)**; on a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to approve the minor modification to Belnap Estates (Shandel Circle) requested by Yvon Cormier Construction Corporation. **Vote Unanimous (4-0)**

On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to accept the amendment to the Homeowners Association Documents and Operation and Maintenance Plan. **Vote Unanimous (4-0)**

Celestial Circle:

The Board opened the public hearings that were continued from the October 27th meeting, on an application by Rayvon Realty Trust for a nine lot Definitive Subdivision Plan, entitled Celestial Circle, located off Sunset Rock Road, and a Special Permit for a Cluster Development and a Special Permit for Earth Movement. Chairman Salafia reviewed the specific items that would be discussed at this evening's meeting. They were: drainage, earth movement and any other outstanding issues.

Drainage:

Ms. Byerley played a video for the Board that showed street views from up and down Sunset Rock Road, including 30 and 26 Sunset Rock Road, the road area in front of the proposed Celestial Circle Subdivision, and other abutters properties on both sides of the street. The video was taken by Robert Douglass, Andover Conservation Director, during a rain event on October 28, 2009. Ms. Byerley, DPW Director Jack Petkus and an abutter, Buzz Dunn, were also present. Mr. Dunn noted that a depression existed along the side of Sunset Rock Road, before 19 Sunset Rock Rd. was built. Mr. Koravos, DK Engineering Associates who represents the applicant, noted that the construction of the house is not at all near the area where Mr. Dunn claims the depression existed. An abutter, Lynne Hunter, noted the swale was further up the roadway. Ms. Byerley noted that the video was for informational purposes only and that it has nothing to do with the subdivision. Mr. Koravos reviewed the plans showing where the ledge is;

Celestial Circle (cont.):**Drainage (cont.):**

he added that, after a meeting with DPW, staff and the peer reviewer, it was decided that a swale would have no impact to the water on the roadway. Janet Bernardo, ESS Group and the peer consultant for the Town noted that if a swale was built, the water would not flow into it. She suggested it is more important to save as many trees as possible to help with infiltration, than to add a swale. Ms. Bernardo noted that all her concerns have been addressed. Several abutters noted that there was a natural swale before 19 Sunset Rock Rd. was built and that the Board did not see the full impact because the rain event was not significant. Chairman Salafia noted that the video that was shown and the water coming down the roadway are unrelated to the subdivision. An abutter Mr. Gable had a question regarding the tree to be removed in the right of way. Ms. Byerley reviewed the plans and noted that, prior to construction, the applicant will meet with the tree warden. Attorney Andrew Caffrey, representing Mr. Gable, questioned if the export of water meets the Board's regulations. Ms. Bernardo noted that the water flows there now and that no water leaves the site. Several abutters expressed concern about water being exported across the street into wetlands.

Earth Movement:

Ms. Byerley reviewed her memo to the Board dated November 5, 2009, which contained a statement on the earth movement calculations. Mr. Koravos reviewed the earth movement operations and noted it would involve about 45 trucks over 2 or 3 months. Mr. Dunn questioned who oversees the earth movement. Chairman Salafia noted that the Inspector of Buildings monitors the hauling routes. Mr. McDonnell noted that DPW inspector oversees construction of the project. Ms. Hunter questioned if it was in the Board's purview to change the location of the roadway. Attorney Thomas Urbelis reviewed the Board Rules and Regulations and explained what's in the Board's purview. He also noted the Board does not design subdivisions. Attorney Caffrey questioned the earth movement calculations and asked if any more information was expected to come in. Mr. Koravos noted that all the earth movement information is on the plans, and they meet all the regulations. Ms. Byerley noted that she has not received comments from DPW. On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to continue the public hearings on an application by Rayvon Realty Trust for a nine lot Definitive Subdivision Plan, entitled Celestial Circle, and a Special Permit for a Cluster Development and a Special Permit for Earth Movement, located off Sunset Rock Road until Dec. 8th at 9:00 pm.

Vote Unanimous (4-0)

Pine Forest Park:

The Board opened the public hearings that were continued from the October 27th meeting, on an application by Angelo Petrosino for a Definitive Subdivision Plan and a Special Permit for Earth Movement associated with an 11-lot subdivision entitled Pine Forest Park located off Flash Rd., North Reading. Chairman Salafia reviewed specific items that would be discussed at this evening's meeting, which included water service/wells, hydrant connection, emergency access, DPW memo, cistern/HOA, street trees and sight distances.

Ms. Byerley noted that Lt. Pomerleau was sick and could not make the meeting tonight. She suggested that the Board table the discussions pertaining to the Fire Department's concerns to the Dec. 8th meeting.

Luke Roy, O'Neill Associates, representing the applicant, gave an overview of the improvements to the emergency access. Ms. Byerley gave a brief overview of Lt. Pomerleau's memo to the

Pine Forest Park (cont.):

Board dated Oct. 28, 2009, regarding the proposed private fire protection water supply. Domenic Ciolino, AHA Consulting Engineers, representing the applicant, reviewed the Study of Fire Protection Water Supply for Pine Forest Park dated Oct. 17, 2009, including the guidelines of the ISO and NFPA. He also stated that there are no State requirements for developments that do not have municipal water supplies, and he reviewed the guidelines of Chapter 6 of the ISO. Ms. Byerley expressed concern that the plans do not show the water connections and noted that waterlines are always shown on the plans. The details of the cistern and pumping mechanism were also not shown on the plans. Luke Roy, O'Neill Associates, representing the applicant, stated that they do not have a detail of the design for the structure for the cistern. Mr. Ciolino noted that the design size of the cistern for the buildings is determined during the building stage of construction. Ms. Byerley noted that she is not comfortable with the design of the cistern and suggested a peer review of the Fire Protection Water Supply to make sure the pumps and water lines are adequate. Chairman Salafia questioned if there is a well large enough to meet the fire flow needs of the subdivision. Mr. Roy noted there is enough water in the cistern which, if it gets low, is refilled. Attorney Thomas Mullen, representing the applicant, noted that sprinkler systems will be installed in all the homes. Al Walker 11 Flash Road questioned who would be responsible for the maintenance of the water system. Ms. Byerley noted that the homeowners' association would maintain the water system.

Grassfields:

The Board opened the public hearing that was continued from the Oct. 27th meeting on an application of Old Andover Restaurant, Inc. d/b/a Grassfields Foods & Spirits for a Special Permit for a Major Non-Residential Project for the expansion of the existing restaurant, located in the Shawsheen Plaza. Ms. Byerley reviewed the applicant's request that the Board continue the public hearing without discussion. On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to continue the public hearing on an application of Old Andover Restaurant, Inc. d/b/a Grassfields Foods & Spirits for a Special Permit for a Major Non-Residential Project for the expansion of the existing restaurant, located in the Shawsheen Plaza, without discussion until December 8, 2009 at 7:00 pm. **Vote** Unanimous (4-0)

Reynolds Street:

The Board opened the discussion on a request submitted by Attorney Mark Johnson on behalf of Vale Realty to determine whether the Earth Movement Special Permit associated with the Reynolds Street subdivision. Ms. Duff recused herself from the discussion and left the room. Town Counsel Thomas Urbelis reviewed the applicant's request for a determination by the Board whether the special permit for earth movement has lapsed. Attorney Urbelis also reviewed the Zoning By-law section 9.4.7. "Lapse" in Special permits and noted the subdivision approval was appealed, but there was no appeal of the special permit associated with the subdivision. Attorney Urbelis noted the appeal was decided in January 2007 and the clock started and lapsed in January 2009 unless there has been substantial use of the special permit or good cause can be shown. Attorney Donald Borenstein representing the applicant reviewed his memo to the Board dated November 3, 2009 and asked the Board to endorse the subdivision plan and find that the special permit has not lapsed for good cause. Attorney Borenstein reviewed the Board's 2005 approval 1-lot

Reynolds Street (cont.):

subdivision plan, the special permit associated with the subdivision, and the appeal. He also reviewed the applicant's filing with the Historic District Commission that was also appeal to the MVPC. Attorney Borenstein noted that they are ready to record the plan and special permit and they are not asking for any changes. Jim Lyons an abutter of the project stated that the work that has been done has nothing to do with the subdivision and he submitted in to the record agendas and minutes for the Ballardvale Historic District Commission (BHDC) in which the developer has denied approval. Attorney Borenstein noted that in 2005 the BHDC denied their filing but re-filed and received approval which was appealed to the MVPC and appealed to Superior Court. Mr. Lyons gave his opinion as to why good cause has not been shown and reviewed the mission of the Town. William Johnson the developer submitted a letter from WSP –SELLS stating that on May 7, 2008 a final plan was drafted and stamped for submittal for the Planning Board's approval and recordation at the Land Court. Attorney Borenstein noted they are asking the Board to find good cause why the permit has not lapsed. Julie McLeod an abutter stated that the applicant should have asked for an extension of the special permit before it expired. After the discussion ended Ms. Duff returned to the meeting

Swan Crossing:

Mr. Materazzo reviewed his memo to the Board, dated November 4, 2009, which included a plan submitted by Land Engineering & Environmental Services, depicting the location and design of the speed bumps proposed on the existing emergency access (Swan lane) for the Board's approval. On a motion by Ms. Anderson seconded by Ms. Duff the Board voted to approve the location and insulation of the speed bumps. **Vote** (3-0-1) Mr. Salafia, Ms. Anderson, and Ms. Duff voting yes; and Mr. McDonnell abstained.

Adjournment: The Board voted to adjourn the meeting at 9:50 p.m.